



Karen

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION IX  
75 Hawthorne Street  
San Francisco, CA 94105-3901

December 20, 1999

Mr. James Stubchaer  
Chairman  
State Water Resources Control Board  
State of California  
P. O. Box 100  
901 P St.  
Sacramento, California 95812-0100

Dear Mr. Stubchaer:

USEPA congratulates the Board on its progress towards implementation of the 1995 Water Quality Control Plan, which we have previously approved. As the plan will be implemented through alterations in the conditions associated with various water rights, USEPA has little cause to comment on such details of implementation. However, one of the conditions described in the proposed decision appears to threaten the balance among conflicting beneficial uses that was the basis for our approval of the Plan.


On page 155, condition 6 of D-1485 is proposed to be amended to read: "Upon request to and approval of the Chief, Division of Water Rights, variations in flow for experimental purposes for protection and enhancement of fish and wildlife may be allowed; provided that such variations in flow shall not cause violations of municipal, industrial and agricultural objectives in Tables 1 and 2."

This condition appropriately safeguards some beneficial uses from experimental manipulations that might threaten them, but fails to address the other 13 beneficial uses identified in the Plan. Even in experimental manipulations that would not violate other objectives, this condition offers no guidance on the level of protection that such experimental approaches should attempt to provide. USEPA believes that experimental manipulations are extremely useful in making future triennial reviews meaningful. However, experimental investigations into the needs of one beneficial use should not be allowed to jeopardize other objectives, nor should the experiments provide a level of protection that is not determined to be equivalent to that intended by the corresponding requirement in the plan.

The Board received testimony about the Vernalis Adaptive Management Plan, which argued for the substitution of an experimental design in place of the requirements in the Plan. Much of that testimony attempted to demonstrate equivalence between the two approaches and to show that all other beneficial uses would be protected. We believe similar evidence should be required for any variances from the plan's objectives.

Please refer staff for any follow-up questions to Karen Schwinn at (415) 744-1861.

Sincerely yours,

  
Alexis Strauss  
Director, Water Division